CARRIERS—RATE REGULATION—RIGHT TO COMPEL RAILROAD COMMISSION TO RAISE STREET CAR FARE.—The Jacksonville Traction Company was unable to operate its street car service under an existing five-cent franchise granted by the city, without a large deficit. The receiver asked for mandamus to force the State Railroad Commission to fix a reasonable rate. *Held,* the state has power to reduce or increase fares, which power is not affected by the city ordinance. This power may be exerted through the Railroad Commissioners and mandamus may properly issue to compel their action. *State ex. rel. Triay* v. *Burr* (Fla., 1920), 84 So. 61.

For discussion of the question involved, see 18 MICH. L. REV. 320.

CONSTITUTIONAL LAW—ADMIRALTY—STATE WORKMEN'S COMPENSATION ACTS—POWER OF CONGRESS.—The JUDICIAL CODE of the United States (Clause 3, Secs. 24 and 256) provides that United States District Courts are granted "exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, saving to suitors, in all cases, the right of a common law remedy, where the common law is competent to give it, *and to claimants the rights and remedies under the Workmen's Compensation Law of any State.*" Pursuant to this provision, the New York courts granted an award under the Compensation Law of that state to the family of a bargeman drowned in Hudson River (226 N. Y. 302). On error in the United States Supreme Court, *held* (Holmes, Pitney, Clarke, and Brandeis, JJ., dissenting) the award improper. Congress had no power to provide for the application of State Workmen's Compensation Acts to employees engaged in service within the jurisdiction of admiralty. *Knickerbocker Ice Co.* v. *Stewart* (May 17, 1920), —— U. S. ——.

The words of the JUDICIAL CODE above in italics were added by Congress in 1917 to take care of the situation as left by the decision in *Southern Pacific Co.* v. *Jenson* (May, 1917), 244 U. S. 205, where it was declared that "Congress has paramount power to fix and determine the maritime law which shall prevail throughout the country," and that, "when applied to maritime injuries, the New York Workmen's Compensation Law conflicts with the rules adopted by the Constitution, and to that extent is invalid." It was further held that the saving clause had no application. Discussing the *Jensen* case, see 15 MICH. L. REV. 657; 17 COL. L. REV. 703; 31 HARV. L. REV. 488; 6 CAL. L. REV. 69; 2 SOUTH. L. QUART. 304; 27 YALE L. JOUR. 255. The principal case now holds that not even Congress can provide for the application of State Workmen's Compensation Laws to maritime injuries. In *Sudden & Christensen* v. *Ind. Acc. Comm.* (April 12, 1920), 188 Pac. 803, the Supreme Court of California had held the same way. On the general subject the Constitution provides simply that "The judicial power shall extend to * * * all cases of admiralty and maritime jurisdiction." (Sec. 2, Art III.) That "Congress has paramount power to fix and determine the maritime law which shall prevail throughout the country" was conceded even by the majority in the *Jensen* case. The principal case must stand, then, on the ground that Congress had gone too far. But on what basis can the court

declare that Congress has gone too far? Surely only on the ground that the Constitution has declared otherwise or has deprived Congress of such legislative power. It is submitted that a constitutional provision declaring the scope of judicial power cannot in good sense be construed as a limitation upon the powers of Congress, except as to jurisdiction so granted by the Constitution. The court says maritime law must be uniform. But the Constitution certainly does not say so. It is not like bankruptcy laws, which are specifically required to be uniform. If, then, Congress thinks there is no compelling reason for uniformity on the matter of Compensation Laws and the court thinks there is, which should prevail? That the court may declare invalid laws of Congress which are in conflict with the Constitution cannot be denied since *Marbury* v. *Madison,* 1 Cranch 137. The principal case, however, is a most glaring instance of the court arrogating unto itself the power to review the *wisdom* of an act of Congress. It is submitted that the decision is not only unsound but is vicious. In the opinion of the court Mr. Justice McReynolds makes some obscure statements indicating that the action of Congress was invalid in that there was a delegation of power to the states. In his dissenting opinion Mr. Justice Holmes fully exposes the fallacy of this position. It was not a case of delegation but of adoption of state law making it for the purpose federal law. This has often been done. See opinion of Mr. Justice Curtis in *Cooley* v. *Board of Wardens,* 12 How. 299, on this general problem.

CONSTITUTIONAL LAW—ORDINANCE PROHIBITING DISPLAY OF FLAG OF ORGANIZATION ANTAGONISTIC TO FORM OF GOVERNMENT—UNCONSTITUTIONAL.—In petition for writ of habeas corpus, petitioner had been convicted for violation of an ordinance of Los Angeles which made it unlawful for any person to display or cause or permit to be displayed, publicly or privately, any flag or device of any nature, representative of any nation, sovereignty or society, which, in its purposes, practices, official declarations, or by its constitution, by-laws, or regulations, espouses for the government of the people of the United States principles or theories of government antagonistic to the Constitution and laws of the United States or to the form of government thereof as now constituted. *Held,* such ordinance invalid and unconstitutional in so far as it prohibits inhabitants of the United States from advocating peaceable changes in our Constitution, laws or form of government, though such change may be based on principles antagonistic to those which now serve as their basis. *Ex parte Hartman* (Cal., 1920), 188 Pac. 548.

Obviously, the court considers the above ordinance as an infringement of personal liberty, within the prohibition of the Fourteenth Amendment, though in fact it refers to no specific constitutional provision, nor does it cite any authority; it seems much impressed with the suggestion that the display of a symbol representing some organization proposing such a step as recall of members of Congress would come within the prohibition of such an ordinance, since it would be, to a certain extent, the court says, antagonistic to our present form of government. In *Com.* v. *Karvonen,* 219 Mass.